

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ENVIRONMENT AMERICA, D/B/A
ENVIRONMENT OHIO, AND LAKE ERIE
WATERKEEPER,

Plaintiffs,

v.

CAMPBELL SOUP SUPPLY COMPANY
L.L.C.,

Defendant.

Civil No. 3:24-cv-00515

Judge Jack Zouhary

UNITED STATES OF AMERICA,

Plaintiff,

v.

CAMPBELL SOUP SUPPLY COMPANY
L.L.C.,

Defendant.

Civil No. 3:24-cv-00523

Judge Jack Zouhary

JOINT STATUS REPORT

Pursuant to the Court's Order directing the Parties to submit a status report in advance of the status conference scheduled for January 8, 2025, the Parties hereby submit this Status

Report to apprise the Court of recent developments and share their respective positions on how this matter should proceed.

Plaintiffs received, via filing through the electronic case files system, Defendant's First Amended Answers to the Complaints filed in this matter. ECF Nos. 26, 27. Plaintiffs have reviewed the Amended Answers and no longer intend to move the Court to seek admissions regarding certain allegations.

Plaintiffs provided Defendant with a draft Rule 26(f) Report on December 9, 2024 and believe finalizing the schedule for this matter is the appropriate next step for moving the proceedings forward, particularly given Plaintiffs' position that liability for the ongoing Clean Water Act violations in this matter will likely be resolved by motion for summary judgment. Defendant is working on proposed edits for the Report. The Parties have differing understandings regarding the requirements of the Report and included separate statements to that effect below. The Parties have exchanged drafts of a proposed Protective Order and a proposed Discovery Order.

The Parties remain committed to a negotiated resolution of this matter. The Parties have exchanged multiple drafts of the injunctive provisions for a consent order but have been unable to make much progress on resolving Plaintiffs' civil penalty claims.

The Parties respectfully request that the Court set a deadline of January 24, 2025 for filing of the Rule 26(f) Report and further request the Court order the Parties to mediation for penalty.

Plaintiffs' Separate Statement:

During the status conference held in this matter on October 21, 2024, Plaintiffs informed the Court that liability in this matter is likely to be resolved via summary judgment

because the violations are based on certified reports generated on a monthly basis by Defendant. As part of this discussion, Plaintiffs understood that the Court directed the Parties to use the 26(f) Report to provide a list of facts expected to be in dispute with a short statement providing the basis for the dispute in addition to information required by Rule 26. Plaintiffs included a section in the draft Report it provided Defendant on December 9, 2024 to address any such facts.

Plaintiffs respectfully request that the Court confirm whether it is the Court's intent that the Parties include a statement as to each fact in dispute with a short basis for that dispute in the 26(f) Report, so that the Parties may expeditiously proceed to summary judgment if mediation is unsuccessful.

With regard to mediation, the United States respectfully requests that the Parties be ordered to mediation with a magistrate judge.

Campbell's Separate Statement:

With regard to Plaintiffs' request that the Rule 26(f) report should contain a list of disputed facts, Campbell's position on the Rule 26(f) report requirements is that they should adhere to the parameters set forth in Federal Rule of Civil Procedure 26(f). Campbell's did not understand the Court to give any directive to the contrary during the October 21, 2024 status conference or the Order that immediately followed (Doc. # 22; PageID # 149). There are existing procedures, including a standing order, for identifying and narrowing the issues during the mediation and summary judgment phases. For example, if mediation is not successful and Plaintiffs elect to proceed with a motion for partial summary judgment, then Campbell's will expect to "meet and confer about the merits of the proposed motion" with Plaintiffs and to "specifically identif[y] genuine disputes of material fact that preclude summary judgment on

those claims,” consistent with this Court’s standing order of May 2022 on “Civil Case Management Procedures.”

With regard to the selection of the mediator, Campbell’s position is that Campbell’s is willing to mediate with either a magistrate judge or a private mediator, whichever route the Court deems the most practical and convenient.

Respectfully submitted this 7th day of January, 2025,

FOR PLAINTIFFS

FOR THE UNITED STATES OF
AMERICA:

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